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Docket No. H0001537IN THE UNITED STATES PATENT AND TRADEMARK OFFICEIn re Application of:  
Van Den Bussche et al.

: Confirmation No. 6960

Serial No. 09/823,623  
Filed: March 31, 2001: Examiner J. Strickland  
: Group Art Unit: 1754

For: NOx FILTER

MAY 09 2003

Commissioner for Patents  
P.O. Box 1450  
Arlington, VA 22313-1450ELECTION AND TRAVERSE

This is in response to a written Requirement for Restriction dated April 8, 2003. Restriction is required between claims 1-18 drawn to a system classified in class 422, subclass 166; claims 19-21 drawn to an apparatus classified in class 422, subclass 168; and claim 22 drawn to a method classified in class 423, subclass 245.1.

A provisional election of claims 1-18 is hereby made. However, for the reasons that follow, the restriction requirements with respect to claims 19-21 and claim 22 are respectfully traversed.

According to MPEP § 803 (Restriction – when proper), there are two criteria for a proper requirement for restriction between patentably distinct inventions:

- (1) The inventions must be independent or distinct as claimed; and
- (2) There must be a serious burden on the examiner if restriction is not required.

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MPEP §803 further states that a serious burden may be prima facie shown by separate classification or by a showing of separate status in the art.

A prima facie showing of serious burden has not been made. Claims 1-18 and 19-21 have the same classification (class 422). Moreover, the examiner has not demonstrated separate status in the art. MPEP §803 requires reasons and/or examples supporting conclusions, yet the examiner provides none as to why claims 1-18 and 19-21 have separate status. The examiner points out differences between these two groups of claims, but does not explain why these differences confer separate status. He simply makes bald conclusions about separate status and "divergent subject matter."

For example, the examiner finds that claims 1-18 do not require a split level PTF including a catalyst integrated with a CATOX, and claims 19-21 do not require a source of gas; but does not explain why these differences confer separate status between these two groups of claims. Moreover, the finding with respect to claims 1-18 is inaccurate, since claim 10 recites "wherein the catalyst and first support structure are integrated with the CATOX," and a second support structure for alkali is spaced apart from the first support structure.

For these reasons, a serious burden has not been prima facie shown with respect to claims 19-21. Accordingly, the restriction requirement with respect to claims 19-21 should be withdrawn.

Although claim 22 has a different classification, it is likely that the examiner will search class 423 as well as class 422 and reveal documents that are applicable to all three groups of claims. Since the examiner would not have to perform a separate search for claim 22, and since the examination of only one additional claim would be required, the examiner would not be seriously burdened

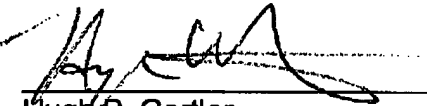
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by the examination of claim 22. Accordingly, the restriction requirement with respect to claim 22 should be withdrawn.

For these reasons, restriction between claims 1-18, 19-21 and 22 should be withdrawn. It is respectfully requested that the examination of claims 1-22 proceed immediately.

Respectfully submitted,

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Pages: 3

  
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I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office on May 8, 2003.

  
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